

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
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Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler. The patent to Fowler teaches structure substantially as claimed including a modular shelving system having a major length direction and a minor width direction, a plurality of modular upright support units (14) to be spaced from each other in the length direction and each unit including a front upright post and a rear upright post, each upright post having an upper through passage and a lower through passage (fig. 2), the lower through passages being completely enclosed passages and the upper through passages being open notches (fig. 3) at the tops of the upright posts, upper and lower cross braces joining the front and rear upright posts, the upper and lower cross

braces being aligned with the upper and lower through passages, respectively, in the front and rear upright posts, the through passages can receive and respectively support a plurality of elongated shelf-supporting rails of varying lengths to allow for varying the length of the shelving system as well as varying the spacing between the support units, the lower through passages receiving lower rails for supporting an appropriate lower shelf and the upper through passages receiving upper rails for supporting an appropriate upper shelf, the upright post being vertically split on a line intersecting the through passage to form a pair of post parts which are separable to effectively open the through passage and allow the cross brace to be connected to one of the post parts by an appropriate fastener (15) inserted through the one post part from within the open through passage the only difference being that the lengths of the braces are not disclosed as being of varying lengths to allow for varying dimensions of the system . However, the use of different dimensioned structures is a matter of desirability and would have been obvious and well within the level of ordinary skill in the art, thereby providing structure as claimed.

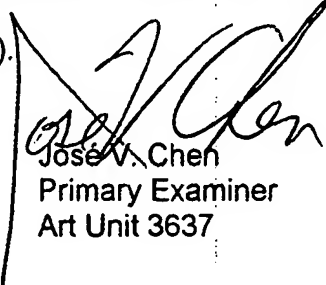
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to June, Simpson, Benayon, Evans, Vall, Forster, Schappach teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f, m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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